

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

In re:)	
)	
JESSE C. TRENTADUE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:08-CV-788CW
)	
UNITED STATES CENTRAL)	
INTELLIGENCE AGENCY,)	
)	
Defendant.)	

Final Pretrial Conference

BEFORE THE HONORABLE CLARK WADDOUPS

July 15, 2014

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1 Salt Lake City, Utah, Tuesday, July 15, 2014

2 * * *

3 THE COURT: Good morning. We're here in the
4 matter of Trentadue v. FBI, 2:08-cv-788. Will the
5 parties please state their appearance.

6 MR. TRENTADUE: Yes, Your Honor, Jesse
7 Trentadue, pro se.

8 THE COURT: Thank you.

9 MS. WYER: Good morning Your Honor. Kathryn
10 Wyer for the FBI. And you may have noticed that I have
11 a co-counsel who has recently appeared and he had
12 intended to attend today, but he is having flight
13 delays, so he may show up later.

14 THE COURT: Thank you. I did notice he
15 entered a pro hac admission in this case.

16 Today is scheduled for a final pretrial
17 conference. It seems to me that the first thing to
18 discuss is entrance of the joint pretrial order which
19 has been submitted. In reviewing that it appears to me
20 that the order as submitted is appropriate with a couple
21 of exceptions. The first exception is the paragraph --
22 let me get the right page, page 9, paragraph 5, which
23 refers to civil contempt. And I think, as I discussed
24 last time, we're not going to try civil contempt. I
25 would propose to simply cross that out and initial it.

1 And the other change is similar, which is on page 13,
2 which also is the paragraph that refers to civil
3 contempt. So what I would intend to do is just cross
4 those two paragraphs out and initial the document. Any
5 other changes to the proposed joint final pretrial order
6 that ought to be addressed before I sign it?

7 MR. TRENTADUE: No, sir.

8 THE COURT: From the FBI?

9 MS. WYER: Your Honor, just the pretrial
10 order contains many disputes over the positions. Are
11 those going to be resolved before --

12 THE COURT: They will be resolved at the
13 trial, but I think those state the issues that are going
14 to be addressed at trial.

15 MS. WYER: Okay.

16 THE COURT: Okay. So with that, I will
17 sign -- those changes I will sign the pretrial order.
18 And there are a number of issues in which both of you
19 state your positions, but it seems to me that the
20 evidence and the arguments at trial will be important to
21 resolve those.

22 The second issue that we have is the -- find
23 it here -- the plaintiff's response to the defendant's
24 Rule 43(a) ruling, an objection -- well, I have the
25 objections of the United States to the 43(a) appearance

1 and then the plaintiff's response to the 43(a) ruling.
2 Is there anything further that needs to be heard on that
3 before we proceed to trial?

4 MR. TRENTADUE: Yes, Your Honor. We've also
5 moved to include Mr. John Matthews as being allowed to
6 testify by video conferencing. Mr. Matthews is beyond
7 the subpoena power. And I think when you look at the
8 case law that the government relies upon it doesn't
9 really support the position they are taking with respect
10 to video conferencing because it's become a state of the
11 art, especially in this courthouse. When you look at
12 the cases a lot of the old ones where witnesses were
13 going to testify by telephone and you couldn't see the
14 witness, you didn't know if there was someone sitting in
15 the room with the witness threatening them when they
16 were testifying. And the cautions I've taken are these
17 are certified court reporting firms, the witnesses have
18 the exhibits, there will be no one in the room with them
19 other than a technical person, if necessary, it's on a
20 court secured system, and it's being -- the court and
21 the parties can view the witnesses.

22 THE COURT: As things stand at this point
23 would you just list the witnesses you expect to appear
24 by videoconferencing.

25 MR. TRENTADUE: Yes, sir. Mr. Hardy has

1 been served with a subpoena. He's scheduled for
2 July 30, 2014, at 8:30 a.m. our time. Ms. Wyer's asked
3 for -- and it's in Alexandria, which is within 10 miles
4 or 15 miles of his home -- she's asked if we can move
5 that to Winchester. And I'll see what I can do, and if
6 it can be done, we will do that, because there are only
7 certain places the court reporters have a
8 teleconferencing center.

9 There will be Ms. Coverdale, Mr. Cooley, and
10 Mr. Browning, who are in the Oklahoma City. And the
11 problem I have, Your Honor, and I wanted to discuss this
12 with the court today, I know Ms. Wyer doesn't know
13 exactly when her case is going to end, but the
14 difficulty with videoconferencing witnesses is you
15 reserve blocks of time, you just can't walk out in the
16 hall and bring them in. And I propose, and it might
17 require interrupting Ms. Wyer's case, but either 10:00
18 a.m. on July 29th or 12:30 p.m. I could finish those
19 witnesses within two hours I think. And then, if the
20 court allows, it would be Mr. John Matthews at 1:00 p.m.
21 on July 30th. He would be my last witness.

22 THE COURT: All right. Ms. Wyer, do you
23 have any response?

24 MS. WYER: Your Honor, I would just note
25 that I didn't find any support for the idea that the

1 costs to the plaintiff is a factor that would qualify as
2 compelling circumstances, and that is the only factor
3 that the plaintiff has offered. We don't even know
4 whether these witnesses would be willing to come or not.
5 So I would assume -- I would have to assume that they
6 would be willing to come if their costs were covered, so
7 the only factor that we know about is the costs to the
8 plaintiff of bringing them.

9 In regard to Mr. Matthews, the plaintiff has
10 cited concerns about his safety and has thus refused to
11 identify the location where he would testify from. The
12 FBI objects to not being informed or provided with that
13 information.

14 And in regard to the timing, the FBI is
15 planning to have two -- at least two witnesses the
16 morning of the 29th, and we're trying to arrange that so
17 that they can testify and then return to Washington,
18 D.C. on that day. So we would want them to go first
19 before any videoconferencing that the plaintiff does.
20 And at this point I really don't know how long the case
21 would take when you take into account cross-examination.
22 It could go through the first two days, and then in that
23 case I would -- I don't see why the plaintiff's
24 witnesses couldn't be left to the 30th.

25 THE COURT: Let me respond. First of all,

1 as to the United States' objections, I read the Tenth
2 Circuit case that the FBI cited, and I believe the
3 important points in that case are that the question of
4 appearance at a video or teleconferencing by remote
5 appearance is largely left to the judgment of the court
6 in terms of administering the evidence. The standard is
7 an abuse of discretion, and in that case, the court,
8 Tenth Circuit, upheld the district court in deciding
9 that he was not going to allow the witnesses to appear
10 remotely. I think that there are some significant
11 differences between that case and this case that makes
12 the remote appearance in this case appropriate. First
13 of all, one of the most important rationales given by
14 the Tenth Circuit in that case was the fact that there
15 were alternative means to produce the testimony,
16 referring to the fact that depositions could be taken
17 and the testimony presented by depositions.

18 In this particular case, because of the
19 unique procedural status of the case, there is no
20 discovery, there is no alternative for the plaintiff to
21 present these witnesses by deposition, video or
22 otherwise.

23 Second, given the nature of this case, I
24 believe that there is good cause, because of the lack of
25 the ability to produce the witnesses, either compel

1 their attendance or to secure their attendance by video
2 deposition for them to appear remotely.

3 With respect to the Texas witnesses, I find
4 that the burden of cost, given the limited time that
5 they would be required to appear and the nature of this
6 case, makes it appropriate and that there is good cause
7 for them to appear remotely and that there will be no
8 prejudice and that there will be adequate safeguards in
9 place to assure that there's the opportunity for
10 cross-examination and no tampering with the witnesses.

11 With respect to Mr. Hardy, he is under
12 deposition to appear -- excuse me, under subpoena to
13 appear remotely. I believe that that is appropriate.
14 The United States has refused to produce him
15 voluntarily, even though he has previously provided six
16 declarations in connection with this case, and I believe
17 that there is good cause and that it is appropriate
18 under Rule 43(a), and the objection of the United States
19 is overruled.

20 As to the timing, this is a bench trial, the
21 presentation of evidence can, under these circumstances,
22 easily be interrupted to accommodate the need for video
23 depositions. If the United States wants to discuss with
24 Mr. Trentadue a time that they believe would fit in
25 their schedule, and if he's able to arrange alternative

1 times, the court would of course allow that. If the
2 plaintiff, Mr. Trentadue, is unable to accommodate that
3 in terms of arrangements, either with videoconferencing
4 facilities or with the witnesses, then I will allow the
5 testimony to be interrupted and we will proceed on the
6 schedule that Mr. Trentadue has proposed. I think that
7 resolves that issue. And of course the United States'
8 objection is recognized and you have preserved that for
9 the record.

10 MS. WYER: Your Honor, our witnesses who are
11 coming from Washington, D.C. I think their schedule
12 should take precedence over the plaintiff's
13 videoconferencing schedule, and they have -- also have
14 logistical limitations on their appearances.

15 THE COURT: If you can work that out with
16 Mr. Trentadue to adjust to a different schedule, I'll
17 honor that. If you're unable to work it out, we'll
18 proceed on Mr. Trentadue's schedule. The United States
19 has significantly greater flexibility and resources to
20 deal with these issues than the plaintiff does in this
21 case, and I do not intend to give their testimony
22 priority in terms of the order of presentation.

23 MR. TRENTADUE: Your Honor, there's also a
24 matter of my motion included in the response to take
25 Mr. Matthews.

1 THE COURT: Mr. Matthews will be included
2 and allowed to testify also remotely. Now, having those
3 two items been discussed and resolved, are there
4 additional items that we should discuss before trial,
5 additional issues to be resolved?

6 MR. TRENTADUE: Yes, Your Honor. I guess it
7 would be the question, and I don't know if it's -- is
8 how -- and it's so confusing because this being -- and,
9 again, it may be my poor research and skill -- and this
10 may be the first FOIA case ever going to trial. And one
11 of the issues I think the court has to address and
12 address fairly soon is what is the nature of these
13 proceedings. Is it a typical civil trial or does it
14 fall within that catchall provision under rule of
15 evidence 1101(d) which says the rules of evidence do not
16 apply to these proceedings, and it goes on to say
17 miscellaneous proceedings such as. And it doesn't
18 list -- doesn't say miscellaneous proceedings, it says
19 such as, and then it lists extraditions or renditions,
20 warrants, seizures, summonses and etcetera. And I
21 believe and would respectfully suggest to the court that
22 this is more like a probable cause proceeding for the
23 issuance of a warrant. And when you look at how the
24 cases -- and there are not very many that have
25 interpreted that provision. There was one case that we

1 cited to the court where it was whether to try a
2 juvenile as an adult, and the court said, based on 1101
3 it was most analogous to a preliminary hearing and,
4 therefore, suspended the full application of the rules
5 of evidence. And in the second case it was a forfeiture
6 of property, and they don't really explain why, they
7 just reduced the standard to allow in hearsay evidence
8 and then they -- and I think that's because that's
9 analogous to a seizure.

10 I don't think this proceeding is analogous
11 to a typical civil trial. It is something basically
12 unheard of. And for that, while we would suggest that
13 under 1101 the rules of evidence should be suspended,
14 especially since it's a bench trial and especially since
15 to do so would comport with Rule 1102, which says these
16 rules should be construed so as to administer every
17 proceeding fairly and eliminate unjustifiable expense
18 and delay and promote the development of evidence law to
19 the end of ascertaining the truth and securing a just
20 determination. I think that falls squarely in what I'm
21 requesting within the spirit and the purpose of the
22 Federal Rules of Evidence.

23 THE COURT: Ms. Wyer, what's the position of
24 the FBI?

25 MS. WYER: Your Honor, this is a civil

1 proceeding that is covered by 1101(b) which specifically
2 mentions civil cases and proceedings. The normal
3 adversary process is going to occur here. The issue to
4 be decided is the ultimate issue in the case, and that
5 distinguishes the situation here from any of the
6 situations in 1101(d). And as you know, FOIA cases are
7 normally handled through summary judgment where the
8 rules of evidence do apply. There's no reason to
9 suddenly suspend the rules of evidence now that the
10 court has decided there's a dispute of material fact and
11 we need to resolve those facts at trial.

12 To go to the cases, the court invited the
13 plaintiff to submit additional briefing on this issue,
14 and he did not do so. I assume that that would resolve
15 the issue. But the cases that the plaintiff cited in
16 the footnote, as he mentioned, one of them involved a
17 juvenile transfer proceeding. That is a preliminary
18 proceeding in a criminal case that simply decides where
19 the proceeding is going to take place.

20 In the forfeiture context there is a statute
21 that governs forfeiture proceedings that requires the
22 government to make a preliminary showing of probable
23 cause. This is discussed in the case cited in the case
24 that the plaintiffs cited, and the case that discusses
25 this is *United States v. One 56-foot Motor Yacht*, 702

1 F.2d 1276, Ninth Circuit, 1983. It explains that the
2 probable cause determination is required by statute,
3 it's a preliminary determination in the case. If we
4 were talking about the ultimate issue in the case, the
5 rules of evidence would apply. This is just a
6 burden-shifting trigger, and that's why the court made
7 that determination there.

8 If you look at 1101(d)(3) and the types of
9 proceedings that it mentions, extradition or rendition,
10 issuing an arrest warrant, criminal summons or search
11 warrant, a preliminary examination in a criminal case,
12 sentencing, granting or revoking probation, considering
13 whether to release on bail, those are extremely far
14 removed from the typical civil case as the case that
15 will occur here in the FOIA context.

16 The court identified as the issue to be
17 decided at trial the adequacy of the FBI search, which
18 is the only issue that remains in the case and will be
19 the ultimate issue that will resolve judgment either in
20 favor of the government or in favor of the plaintiff.
21 This is the final proceeding that is going to occur, and
22 there is no reason to distinguish this from any other
23 civil context. So the FBI's position is that the
24 Federal Rules of Evidence apply here.

25 THE COURT: Anything further, Mr. Trentadue?

1 MR. TRENTADUE: Yes, Your Honor. It is not,
2 and I think the reasons, among others the court noted in
3 the ruling on the videoconferencing testimony, like a
4 normal civil proceeding, or even a normal criminal
5 proceeding where there is discovery and ability to
6 develop a full range of evidence. You have none of that
7 in these proceedings in a FOIA case. I think it falls
8 squarely under 1101(d) in that sort of miscellaneous
9 proceeding "such as."

10 THE COURT: I believe that Ms. Wyer is
11 correct, that this is a civil proceeding and that the
12 rules of evidence do apply and should apply to the trial
13 of this matter. I would note, however, that courts,
14 particularly in a bench trial, have the right and enjoy
15 the discretion to admit evidence that they believe is
16 reliable and is appropriate for the issues that are to
17 be preserved. The unique nature of this case I think
18 makes it such that some of the evidence, perhaps much of
19 the evidence that will be offered by each side will be
20 relevant to the issue as to what information was
21 available to the FBI in determining what the reasonable
22 scope of the search would be. In such cases the
23 evidence may be offered for reasons other than the
24 truthfulness of the hearsay statements or the
25 truthfulness of the information that's in the documents.

1 But it will largely be offered for the fact that the
2 documents exist, they could have been found, and that
3 the information was available to the FBI in terms of
4 developing the scope of the search and the
5 reasonableness of the search that was carried out in
6 light of that information.

7 Now, if there is a specific piece of
8 evidence that comes in that raises a question under the
9 rules of evidence, I will address it at that time. But
10 generally I intend to apply the rules of evidence with
11 somewhat relaxed nature given the nature of the
12 circumstance, the nature of the proceeding, and the kind
13 of evidence that is relevant to the ultimate
14 determination.

15 Any additional issues that we need to
16 address?

17 MS. WYER: Your Honor, the defendant had
18 raised authenticity objections with the plaintiff and he
19 has not responded, so -- permission to approach.

20 THE COURT: Yes. Okay. And apparently
21 you're raising this objection with respect to --

22 MS. WYER: Some of plaintiff's exhibits
23 that --

24 THE COURT: Do you have the specific
25 exhibits that you want to address today?

1 MS. WYER: I do not have them with me. Some
2 of them have been filed previously on the docket. Two
3 of them are videotapes where it is simply not known what
4 they are. They are not from the FBI, so we simply would
5 need the authenticity to be established. And there's
6 the timeline document, there's three different instances
7 where the timeline document appears. This document has
8 never been officially acknowledged, as far as I know, by
9 any agency. It's not an FBI document. We do not know
10 what it is or what -- there's no way to assess its
11 reliability because it's simply not identified. We
12 don't know who made it, we don't know why it was made,
13 we don't know who used it or how it was used, we don't
14 know what reliance was placed on it at the time it was
15 made. We simply know nothing about it, and the
16 authenticity of that document needs to be established
17 before it's admitted into evidence.

18 The other exhibits are simply photographs
19 where we simply have no information about where those
20 photographs came from, when they were taken, or what
21 they purport to show. So, again, we would insist that
22 some authentication of those documents be provided
23 before they are admitted.

24 THE COURT: Mr. Trentadue, do you wish to
25 respond?

1 MR. TRENTADUE: Yes, Your Honor. My
2 understanding of the court's order that you had them
3 file the objections on authenticity was to give the
4 parties notice that there might be a foundation problem,
5 but the ultimate ruling would occur at trial once the
6 witnesses are put on to establish the foundation for
7 that document, which I intend to produce witnesses to do
8 that. I also understood that the court was reserving
9 ruling on the objections until trial and that there was
10 no necessity of responding to a letter saying I object
11 to this -- exhibits. And as far as the photographs,
12 those were included in letters to Ms. Wyer, who I
13 explained what they were and everything else and asked
14 questions about them and they're attached to that
15 correspondence. The videotapes have been prepared and
16 presented to them. They're self-explanatory too in
17 terms of what's on the labels and what's happening.

18 But following up in reporting to the court,
19 the parties have exchanged exhibits in compliance with
20 the court's order, and that was done fully in compliance
21 with the court's order on the timeline set forth in the
22 pretrial order.

23 THE COURT: Given the fact that this is not
24 a jury trial, it is less important in this case to
25 establish before the trial begins the authenticity of

1 these documents, and as I previously indicated, I will
2 reserve ruling on them. Of course, the United States
3 will have the ability to make any objection if there's
4 not adequate foundation as to the authenticity of any
5 document before it's received in evidence. But given
6 the fact that we're going to proceed without discovery,
7 without the opportunity to authenticate some of these
8 documents in the usual way in a typical civil case, I
9 will allow the plaintiff to present evidence as to the
10 authenticity of the documents. If the government
11 objects, I will rule on them at the time that they
12 are -- that that evidence is presented.

13 MS. WYER: Sorry, Your Honor, I had only
14 raised this issue because at the end of last week's
15 proceeding I had asked specifically about authenticity
16 objections, and you said that you would hear them today.

17 THE COURT: Yeah, I understand your reason
18 for raising it, but in practicality I believe the only
19 rational way to deal with these is to allow
20 Mr. Trentadue to present them and use the documents with
21 the witnesses and see if he can establish authenticity.
22 If he can, we'll proceed in that way; if he can't, I'll
23 hear the objections of the United States. So we will
24 resolve those matters at trial.

25 MR. TRENTADUE: There is one other document

1 matter I would suggest, sir, is that the parties be
2 required by July 23rd or 24th to submit to the court a
3 list of the exhibits to which they don't object. And I
4 mean there are a number of the government's that I don't
5 have any objection to.

6 THE COURT: Yeah, to the extent you can
7 agree to that --

8 MR. TRENTADUE: Yes, sir.

9 THE COURT: -- that will be fine. If you
10 don't agree, it's going to be quite efficient in this
11 case to just rule on them as the documents are used. I
12 think usually, or often, it is not an efficient use of
13 time to spend a lot of time talking about documents that
14 may or may not be used at trial. So my preference and
15 practice is to deal with them when they become an issue
16 at trial.

17 MR. TRENTADUE: I thought if we could agree,
18 then --

19 THE COURT: If you can agree, that's
20 perfectly fine; if you don't agree, I'll deal with those
21 objections at the time the documents are used.

22 Anything further?

23 MR. TRENTADUE: No, sir.

24 MS. WYER: Yes, Your Honor. We have various
25 issues with witnesses. I wanted to inform the court

1 that one of the witnesses has had a name change. So
2 Karen Lanning's current name is Karen Thiessen,
3 T-h-i-e-s-s-e-n. We have another of the witnesses that
4 we had previously identified has had a very recent --
5 two deaths in her family, and she will not be able to
6 appear to testify. And so we want to bring someone else
7 to cover the same -- basically the same information, and
8 her name is Monica Mitchell. She's --

9 MR. TRENTADUE: I couldn't hear the name.

10 MS. WYER: Monica Mitchell.

11 THE COURT: And the court will allow -- of
12 course, those kinds of substitutions often occur, and as
13 long as you give adequate notice to Mr. Trentadue that
14 you're going to substitute the witness, that will be
15 allowed.

16 MR. TRENTADUE: I have no objection.

17 MS. WYER: Thank you, Your Honor.

18 We also wanted to mention that in light of
19 some of the concerns that the court has expressed and
20 some of the rulings that it has made, we are considering
21 attempting to identify and bringing to testify one or
22 more case agents from the Oklahoma City bombing
23 investigation who would address their knowledge of the
24 existence of videotapes such as plaintiff has
25 identified. And because those agents are no longer --

1 or seem to no longer be with the FBI, we have had
2 difficulties in locating them and contacting them, but
3 that is still in progress and we hope to know whether
4 that will be possible by the end of this week. So we
5 would ask that we be allowed to add witnesses of that
6 nature, but if we could inform the court by Friday
7 whether that would happen, we would be willing to do
8 that.

9 THE COURT: Any objection?

10 MR. TRENTADUE: Yes, sir. This is the kind
11 of information that should have been searched for and
12 produced long ago in this case. And suddenly we're
13 hearing at the last minute, oh, we'll bring somebody
14 forward that says this evidence doesn't exist. An
15 unknown person at this point in time I would object
16 strenuously to that, Your Honor, especially since in the
17 pretrial order, and I don't mean to misquote the
18 pretrial order, mis-cite the pretrial order, I don't
19 believe the government has made an issue out of the
20 existence or nonexistence of these tapes.

21 MS. WYER: Your Honor, to be clear, we
22 believe that the existence or nonexistence of the tapes
23 is not an issue that should be required to be addressed
24 in the FOIA context. However, given the court's -- some
25 of the court's statements and the plaintiff's arguments,

1 he is clearly making that an issue in the case, and we
2 should be allowed to respond to that if we are able to
3 find agents who could respond to that.

4 THE COURT: Proceed by giving Mr. Trentadue
5 notice of the witnesses. It seems to me that what
6 you're talking about is in the nature of rebuttal
7 testimony, and if at that point in the trial you believe
8 you need to call these witnesses as rebuttal testimony,
9 I'll hear any objections at that time, and, if
10 necessary, if there's some kind of prejudice or
11 surprise, I'll deal with that issue at the time. But to
12 the extent -- and as soon as you can give Mr. Trentadue
13 notice of who you would propose to call, give him that
14 notice, and if he continues to object once he knows who
15 the witnesses are and what their proposed testimony will
16 be, I'll deal with it at that time.

17 MS. WYER: Thank you, Your Honor. We were
18 hoping to present these witnesses in our case-in-chief.
19 Rebuttal is another issue that I was wondering about
20 though with regard to how that would --

21 THE COURT: Given the United States'
22 position that the existence of the tapes is not an
23 issue, it seems to me it's more in the nature of
24 rebuttal testimony. I'm not sure that it matters
25 significantly, given the nature of the way this

1 proceeding is going to go forward with the court as a
2 bench trial, but if you want to call them, attempt to
3 call them as a part of your case-in-chief, again, give
4 Mr. Trentadue notice and I'll hear any objections at the
5 time you propose to sponsor the witnesses.

6 MS. WYER: Thank you, Your Honor.

7 THE COURT: Anything further before we
8 recess?

9 MR. TRENTADUE: No, sir.

10 THE COURT: Ms. Wyer?

11 MS. WYER: Your Honor, I just have a few
12 matters. I wondered if the court has any particular
13 policies or preferences in a bench trial regarding
14 opening arguments, closing arguments, post-trial
15 briefing. Will there be deadlines set for post-trial
16 briefing and things like that?

17 THE COURT: My expectation is that once
18 we've completed the evidence we will have a transcript,
19 I'll ask each side to submit post-trial briefs, and I
20 will make my findings and conclusions based on the
21 post-trial briefs. And before I do that will invite
22 closing arguments. The usual practice is to get your
23 post-trial briefs, then hear closing arguments. So
24 unless there is a different suggestion or desire by both
25 parties, that's how I intend to proceed. So we'll take

1 the evidence, wait until we have a transcript, have
2 post-trial briefing, hear oral argument, then I'll make
3 the ultimate findings and conclusions. That gives you
4 some guidance. And we'll talk about the timing of that
5 once we get to that point in the trial.

6 MS. WYER: Thank you, Your Honor.

7 THE COURT: Anything further?

8 MR. TRENTADUE: No, sir.

9 THE COURT: Thank you. We will see you on
10 trial. If you need assistance, if you can't work out
11 the schedule of the witnesses and you have problems --
12 we'll proceed as you've indicated, but if you need my
13 assistance on some of those issues, I'll be available
14 and you can talk to me by telephone or we can schedule a
15 hearing. We will be in recess.

16 MR. TRENTADUE: Thank you, sir.

17 MS. WYER: Thank you, Your Honor.

18 (Whereupon, the matter was concluded.)

19 * * *

C E R T I F I C A T E

State of Utah

County of Salt Lake

I, Karen Murakami, a Certified Shorthand Reporter for the State of Utah, do hereby certify that the foregoing transcript of proceedings was taken before me at the time and place set forth herein and was taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

That the foregoing pages contain a true and correct transcription of my said shorthand notes so taken.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of September, 2021.

Karen Murakami

Karen Murakami, CSR, RPR